

**House File 443 - Introduced**

HOUSE FILE 443

BY R. OLSON

**A BILL FOR**

1 An Act relating to administrative license revocations due to  
2 test result failure in an operating-while-intoxicated case  
3 and the prescription medication defense.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 321J.12, Code 2013, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 7. *a.* This section does not apply to a  
4 person operating a motor vehicle while under the influence  
5 of a drug if the substance was prescribed for the person and  
6 was taken under the prescription and in accordance with the  
7 directions of a practitioner as defined in section 155A.3  
8 or if the substance was dispensed by a pharmacist without a  
9 prescription pursuant to the rules of the board of pharmacy,  
10 if there is no evidence of the consumption of alcohol and the  
11 medical practitioner or pharmacist had not directed the person  
12 to refrain from operating a motor vehicle.

13 *b.* When served with a notice of revocation pursuant to this  
14 section based upon test results that indicated the presence of  
15 any amount of a controlled substance in the person's blood or  
16 urine, a person may assert, as an affirmative defense, that  
17 the controlled substance present in the person's blood or  
18 urine was prescribed or dispensed for the person and was taken  
19 in accordance with the directions of a practitioner and the  
20 labeling directions of the pharmacy, as that person and place  
21 of business are defined in section 155A.3.

22 Sec. 2. Section 321J.13, subsection 2, Code 2013, is amended  
23 by adding the following new paragraph:

24 NEW PARAGRAPH. *d.* Whether the person produced evidence to  
25 invoke the prescription medication defense pursuant to section  
26 321J.12, subsection 7.

27 EXPLANATION

28 This bill relates to administrative license revocations due  
29 to test result failure in an operating-while-intoxicated case  
30 and the prescription medication defense.

31 Under current law, a prescription medication defense is  
32 available to a defendant who has been criminally charged with  
33 an operating-while-intoxicated offense because the person was  
34 under the influence of a drug if the substance was prescribed  
35 for the person and was taken under the prescription and in

1 accordance with the directions of a medical practitioner or  
2 if the substance was dispensed by a pharmacist without a  
3 prescription pursuant to the rules of the board of pharmacy,  
4 if there is no evidence of the consumption of alcohol and  
5 the medical practitioner or pharmacist had not directed the  
6 person to refrain from operating a motor vehicle. The bill  
7 makes this same defense available to a person who requests  
8 an administrative hearing because the person's license was  
9 revoked based upon test results that indicated the presence of  
10 a controlled substance or other drug based on a violation of  
11 Code section 321J.12.